

REMARKS

At the outset, the Examiner is thanked for the review and consideration of the pending application. The Office Action dated September 7, 2005 has been received and its contents carefully reviewed.

Applicant has rewritten claim 1 to include the limitations of claim 5, cancelled claims 2, 3, 4, 6 and 7 and amended claims 8 and 9. In rewriting claim 1 to include the limitations of claim 5, the reference character "30" has been deleted and yttrium aluminum garnet has been replaced by YAG:Tb3+.

In the aforementioned Office Action, the Examiner rejected claims 1-5 and 8-9 under 35 U.S.C. 102(a) as being anticipated by SHIGEKAZU (JP 2003-249693). In making that rejection the Examiner stated:

"In regards to Claim 1, SHIGEKAZU provides at least one blue light emitting diode (1) as a blue light source; at least one red light emitting diode (2) as a red light source; and a fluorescent layer (3) formed by mixing fluorescent powders with transparent resin (Paragraph 14); the fluorescent layer being glued to the blue light emitting diode and the red light emitting diode (Figure 1); the blue light diode and the red light emitting diode emitting blue light and red light, respectively, which are then mixed (Paragraph 16); the fluorescent layer absorbing radiation having a blue light to emit light with wavelengths different from the blue light and red light (Paragraph 16)".

The Examiner went on to state:

"In regards to Claim 5, SHIGEKAZU provides an LED Lamp wherein the fluorescent powders of the fluorescent layer are YAG (Paragraph 14).

It is respectfully submitted that amended Claim 1, dependent Claims 6-8 and independent and amended Claim 9 are clearly and patentably distinguished over the SHIGEKAZU reference. To be more specific amended Claim 1 calls for “wherein the fluorescent powders of the fluorescent layer are selected from one of YAG:Tb³⁺, SmO_n4⁻, and BxOy3⁻.”

By contrast, SHIGEKAZU discloses the use of YAG:Ce. Accordingly, it is applicant’s contention that amended Claim 1, dependent claims 6 and 8 and amended Claim 9 are not anticipated by the cited reference. As set forth in the Manual of Patent Examining Procedure, Section 2131

“to anticipate a Claim, the reference must teach every element of the claim”

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference...The identical invention must be shown in as complete detail as is contained in the...claim.”

It is respectfully submitted that the limitation of amended Claim 1 is not disclosed or found in the cited reference. Accordingly, the rejection under 35 U.S.C. 102(a) should be withdrawn.

Further, it is applicant’s contention that Claim 9 is clearly and patentably distinguished over the cited references. Referring to Figure 3 with a small volume or area, a fluorescent layer 30 covers the blue light emitting diode but not the red light emitting diode. However, according to the invention in the cited references, the fluorescent layer 3 covers the red LED 2 and is therefore structurally different from the present invention. In addition, the fluorescent layer 30 in Figure 3 has a relatively smaller volume or area, fluorescent powder in the fluorescent layer 30’, provides a higher density. This results in blue light with a high efficiency in exciting the fluorescent layer 30’ as well as reducing the amount of blue light transmitted through the fluorescent layer 30’ and lowering interference between the blue light source and the red light source.

It is also applicant's contention that amended claim 9 is distinguished over the cited references by calling for the fluorescent powder of the fluorescent layer selected from one of YAG:Tb³⁺, SiMoN₄- and BxOy₃-.

Finally, the amended claims calls for fluorescent powders, which are different from those in the cited references. Moreover, it the invention of SHIGEKAZU, the fluorescent powder is activated by Ce whereas the fluorescent powder in the present invention is activated by Tb³⁺ or Eu^{2+/3+}. Therefore, based on the amended claims the fluorescent powder is different and produce a different result.

In view of the above, it is applicant's contention that this application is now in proper form and clearly and patentably distinguished over the cited art. Accordingly, prompt favorable action is requested.

If these papers are not considered timely filed by the Patent and Trademark Office, then a petition is hereby made under 37 C.F.R. §1.136, and any additional fees required under 37 C.F.R. §1.136 for any necessary extension of time, or any other fees required to complete the filing of this response, may be charged to Deposit Account No. 07-0753. Please credit any overpayment to deposit Account No. 04-0753. A duplicate copy of this sheet is enclosed.

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Respectfully submitted,

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